

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF DELAWARE

3
4 BACKERTOP LICENSING LLC,)
5 Plaintiff,)
6 v.) C.A. No. 1:22-cv-00573-CFC
7 AUGUST HOME, INC.,)
8 Defendant.)
9 BACKERTOP LICENSING LLC,)
10 Plaintiff,) C.A. No. 1:22-cv-0572-CFC
11 v.)
12 CANARY CONNECT, INC.,)
13 Defendant.)
14
15

16 Tuesday, August 1, 2023
17 10:00 a.m.
Hearing

18
19 844 King Street
Wilmington, Delaware
20

21 BEFORE: THE HONORABLE COLM F. CONNOLLY
United States District Court Judge
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1 APPEARANCES:

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3 CHONG LAW FIRM PA
BY: JIMMY CHONG, ESQ.

4 -and-

5 FINGER & SLANINA
6 BY: DAVID FINGER, ESQ.

7 Counsel for the Plaintiff

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P R O C E E D I N G S

(Proceedings commenced in the courtroom beginning at
10:00 a.m.)

THE COURT: Good morning. Please be seated.

All right. Mr. Finger.

MR. FINGER: Good morning, Your Honor. David Finger on behalf of Backertop Licensing and Creekview, IP Licensing.

Your Honor, we are presenting no witnesses this morning. None of them have shown.

On Friday, we presented Your Honor with a memorandum of authorities explaining why it is our position that these proceedings should not be going forward. Some, Your Honor is familiar with already from the objection.

We also provided some additional authorities, particularly in the context of bringing in witnesses from over 100 miles away. We have a couple of U.S. Supreme Court cases and a Third Circuit case which hold that Your Honor cannot exercise inherent authority for something that's prescribed by the Federal Rules.

Be that as it may, Your Honor, unless Your Honor has any questions, I have no -- I'm happy to stand

1 on my papers and end.

2 **THE COURT:** Okay. So both Ms. LaPray and
3 Mr. LaPray are not here, correct?

4 **MR. FINGER:** Correct. And neither is any
5 representative of Backertop or Creekview.

6 **THE COURT:** Creekview?

7 **MR. FINGER:** Yes.

8 **THE COURT:** Okay. I didn't hear.

9 **MR. FINGER:** Apologize, Your Honor.

10 **THE COURT:** Okay. One of the things I'm
11 supposed to consider in crafting a remedy for a civil
12 contempt is the financial resources and the burden on the
13 party.

14 What can you tell me about, let's start with
15 Ms. LaPray. Do you know anything about what her salary is
16 as a paralegal?

17 **MR. FINGER:** I can't answer that question.
18 From what I glean, from what I've seen in this case so far
19 and my conversation with her, which was not on that
20 specific issue, is these are working people, not of great
21 means.

22 But again, I can't give Your Honor any document
23 or cite to any specific information to answer that.
24 That's solely my impression.

25 **THE COURT:** So you don't know anything about

1 her financial resources other than, I guess, what's been
2 on the record, which is she's a paralegal, and her husband
3 works for IP Edge, fair?

4 **MR. FINGER:** That's fair, Your Honor.

5 **THE COURT:** All right. How about with respect
6 to Mr. LaPray, what does he do for a living?

7 **THE WITNESS:** Again, I don't have that
8 information.

9 **THE COURT:** You have no information whatsoever?

10 **MR. FINGER:** I'm going to not say anything
11 because anything I say will be pure speculation.

12 **THE COURT:** Then you shouldn't say it. Okay.
13 So you don't know anything about the burden associated
14 with coming to court --

15 **MR. FINGER:** I do not.

16 **THE COURT:** -- that he would suffer; is that
17 right?

18 **MR. FINGER:** That's correct, Your Honor.

19 **THE COURT:** Okay. Anything else you wish to
20 say?

21 **MR. FINGER:** No, Your Honor. Thank you.

22 **THE COURT:** All right. What I'm going to do is
23 I will issue an order at some point. You've made this
24 filing on Friday.

25 **MR. FINGER:** Apology.

1 **THE COURT:** So I'm not in a position to respond
2 to it this morning.

3 But anything else you wish to say in connection
4 with these, please do so now.

5 **MR. FINGER:** I think, Your Honor, everything we
6 have to say is included in the papers for Your Honor to
7 review.

8 **THE COURT:** Okay.

9 Mr. Chong, do you have anything to say?

10 **MR. CHONG:** No, Your Honor.

11 **THE COURT:** Okay. Then we are adjourned.
12 Thank you.

13 **MR. FINGER:** Thank you, Your Honor.

14 (The proceedings concluded at 10:07 a.m.)

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17 CERTIFICATE OF COURT REPORTER

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19 I hereby certify that the foregoing is a true and
20 accurate transcript from my stenographic notes in the
21 proceeding.

22 /s/ Bonnie R. Archer
23 Bonnie R. Archer
24 Official Court Reporter
25 U.S. District Court